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Attorney Docket No. PC 10754AJTJ



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS:

William J. Curatolo, et al.

Group Art Unit: 1615

Examiner: B. M. Fubara

PATENT NO.: 09/918,127

FOR: Pharmaceutical Compositions of  
Cholesteryl Ester Transfer Protein Inhibitor :

FILED: July 30, 2001

Assistant Commissioner For Patents  
Washington, D.C. 20231

Sir:

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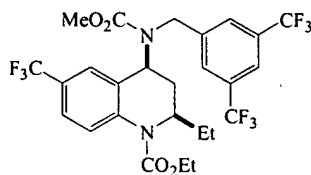
By

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Official Action dated March 13, 2002 in the above-identified application, the term for response having been extended three (3) months by including the appropriate fee and petition herewith. In response to the Office Action, Applicants make the following elections:

In response to the requirement to elect a single species from among the groups noted, i.e., groups I-xiii, Applicants elect the invention of Group IV, i.e., compounds of formula IV. Claims 1-10, 17-18, and 35-96 are readable thereon

In response to the requirement to elect a single specific cholesteryl ester transfer protein inhibitor, Applicants elect the compound: [2R,4S] 4-[(3,5-bis-trifluoromethyl-benzyl)-methoxycarbonyl-amino]-2-ethyl-6-trifluoromethyl-3,4-dihydro-2H-quinoline-1-carboxylic acid ethyl ester, having the following structure:



Claims 1-10, 17-18, and 35-96 are readable thereon.

For completeness, it is noted that the above compound is specifically named at page 44, lines 14-17 of the specification. It is claimed in claim 18 at page 167, lines 4-6. It is believed that the Examiner asked for a complete definition of the variable parameters in the generic formula (i.e., formula IV) with respect to the elected species. The definition of each variable parameter with respect to formula IV, with respect to claim 17 is as follows:

R<sub>IV-1</sub> is W<sub>IV</sub>-X<sub>IV</sub> wherein W<sub>IV</sub> is a carbonyl, X<sub>IV</sub> is -O-Y<sub>IV</sub> and Y<sub>IV</sub> is a fully saturated

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two carbon chain;

$R_{IV-2}$  is a fully saturated two carbon chain;

$R_{IV-3}$  is  $Q_{IV}$  wherein  $Q_{IV}$  is a fully saturated single carbon mono-substituted with  $V_{IV}$ , which is a fully unsaturated six-member ring which is optionally di-substituted with  $C_1$ alkyl, and the alkyls are each substituted with three fluorines;

$R_{IV-4}$  is  $Q_{IV-1}$  wherein  $Q_{IV-1}$  is a fully saturated single carbon;

$R_{IV-5}$  is hydrogen;

$R_{IV-6}$  is a fully saturated single carbon tri-substituted with halo (i.e., fluoro);

$R_{IV-7}$  and  $R_{IV-8}$  are hydrogen.

Applicants were further required to elect a single concentration enhancer. In response, Applicants elect hydroxypropyl methyl cellulose acetate succinate (HPMCAS). Claims 1-50, 52, and 54-96 are readable thereon.

Applicants were further required to elect a single disease. In response, Applicants elect atherosclerosis. Claims 1-89 and 96 are readable thereon.

It is noted that Applicants are confused by the Office Action in that, throughout paragraph 1 of the Office Action, the Examiner uses the phrase "election of species" and "species" to apply to Applicants election of structure, specific CETP inhibitor, concentration enhancer, and disease. This would tend to indicate that the Examiner has required a true election of species, and that is how Applicants are treating the Office Action. Paragraph 2 of the Office Action uses the language "cancellation of claims to a non-elected invention", language that generally relates to a true restriction requirement. Applicants note that they are treating the Office Action as a requirement to elect species from among the groups noted by the Examiner. Applicants reserve their right to traverse in the event the Examiner does in fact require the cancellation of claims and/or limitation of the invention to a single group.

Action on the merits, especially a Notice of Allowance, is respectfully requested.

Respectfully submitted,

Date: July 15, 2002

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